

# **Lease and ownership of non-residential premises**

## **Resumé**

The objective of my thesis is to describe in detail the current lease (sublease), and ownership of non-residential premises as well as their expected changes in the new Civil Code.

Within my thesis I branch out into several chapters in which I try to provide a comprehensive view on the legal legislation of the concepts of a lease, sublease and ownership. I have analysed these terms and referred to the current as well as previous judgments where the legislation appears to be ambiguous, notably judgments delivered by the Supreme Court.

Chapter One is introductory and defines basic terminology used in the thesis, non-residential premises.

Chapter Two is subdivided into parts which I dedicated to lease of non residential premises. This part of my work is devoted to a brief historical overview and current legislation of lease of non-residential premises most notably in view of selected parts of the Act No. 116/1990 Coll, and Act No. 40/1964 Coll. It provides an outline about creation of lease, particulars of the contract, rights and obligations of the lease and termination of lease. Act No. 116/1990 Coll. is significant as it restores the rights, which were removed during the period of socialism, of owners of non-residential premises to rent their property. The lease of non-residential premises is often negotiated for business purposes. The relationship between two entrepreneurs is governed by the Commercial Code it applies the relevant provisions of the lease contract in the Civil Code.

Chapter Three deals with a sublease as derived from the lease and thus dependent on it.

In chapter Four dedicated for non-residential property, in accordance with Act No. 72/1994 Coll, I will discuss the emergence of property to non-residential premises and the rights and obligations of owners of non-residential premises within their statutory condition of membership as the community of unit owners. Regarding the community of unit owners in current legislation, there are still many remaining ambiguities concerning the creation, management, decision-making or sanctions for non-participation in the organs of community unit owners.

The last chapter of the thesis will address the change of society, its needs and the gradual convergence of legislation of European states. The current private law in Czech Republic in connection to the totalitarian period appears to be unsatisfactory and complicated. The essential and long awaited change which is approaching is the adoption of the new Civil Code. The new Code summarizes the legislation of private law in one single code.

The legislative intention is still subject to changes in the legislative process and therefore it is difficult to estimate whether a Civil Code will be adopted, and if so what the content will be. The adoption the Civil Code should come in effect on the 1st of January 2013. Many critics have raised doubts about the inadequacy of time to prepare for the acquisition of changes for the public and state administration. The complexity of the Civil Code is also questioned by many, having more than 3000 sections may cause ordinary people complications. An advantage of the emergence of the new Civil Code can be seen within the area of non-residential premises in regulation of whole legislation of a lease and ownership of non-residential premises in the same act, greater autonomy of the parties' intention as well as the creation of sophisticated legislation of community of unit owners and its administration.

I consider the new Civil Code to be of benefit, since it is closer to the standards of private law in Europe. The complexity, advantages and disadvantages of various provisions of the new codification of private law will only show their application in practice.